

**State of California
California Regional Water Quality Control Board, Los Angeles Region**

**RESOLUTION NO. 2003-XXX
July 10, 2003**

**Amendment to the Water Quality Control Plan for the Los Angeles Region to Suspend the
Recreational Beneficial Uses in Engineered Channels during Unsafe Wet Weather
Conditions**

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region, finds that:

1. Section 101(a)(2) of the federal Clean Water Act (CWA) sets a national goal, wherever attainable, of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.
2. 40 CFR §131.10(a) directs States to specify appropriate designated uses to be achieved and protected. The classification of the waters of the State must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial and other purposes including navigation.
3. The Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) designates beneficial uses of the Region's water bodies, and in addition establishes water quality objectives for the protection of these beneficial uses and outlines a plan of implementation for maintaining and enhancing water quality.
4. States may remove a designated use which is not an existing use, as defined in 40 CFR §131.3, or establish sub-categories of a use if the State can demonstrate that attaining the designated use is not feasible due to factors set out in 40 CFR §131.10(g).
5. Under 40 CFR § 131.10 (j)(2) of the Water Quality Standards Regulation, States are required to conduct a Use Attainability Analysis (UAA) whenever a State wishes to remove a designated use that is specified in CWA section 101(a)(2) or adopt subcategories of uses specified in section 101(a)(2) that require less stringent criteria.
6. The Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) identifies 61 engineered flood control channels where access is restricted or prohibited. These engineered flood control channels are constructed to reduce the incidence of flooding in urbanized areas by conveying stormwater runoff to the ocean or other discharge point as efficiently as possible. To accomplish this, the channels are usually lined, on the sides and/or bottom, with rip-rap or concrete, and the sides of the channel are vertical or steeply sloped. These modifications create life-threatening "swiftwater" conditions during and immediately following significant storm events. The inherent danger of recreating in these channels is widely recognized and is already addressed by Los Angeles and Ventura counties by either locking access gates to these channels under defined wet weather conditions or keeping them locked at all times.

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7. As indicated in Chapter 2 of the Basin Plan, 19 of these water bodies are assigned a “Potential” REC-1 use, 31 an “Intermittent” REC-1 use, and 11 an “Existing” REC-1 use. In addition, 41 are assigned an “Intermittent” REC-2 use and 20 are assigned an “Existing” REC-2 use. Access to all of the candidate water bodies is restricted or prohibited by the County of Los Angeles Department of Public Works.
8. The proposed amendment is based on the results of a UAA of the recreational uses of engineered channels with restricted access during defined wet weather conditions, performed by Regional Board staff. The UAA is necessary to conform with 40 CFR §131.10(j) because the action involves the recreation use specified in section 101(a)(2) of the Clean Water Act.
9. The UAA and resulting proposed amendment only apply to water contact recreational activities associated with the swimmable goal as expressed in the federal Clean Water Act section 101(a)(2) and regulated under the REC-1 use, non-contact water recreation involving incidental water contact regulated under the REC-2 use, and the associated bacteriological objectives set to protect those activities. Water quality objectives set to protect (1) other recreational uses associated with the fishable goal as expressed in the federal Clean Water Act section 101(a)(2) and regulated under the REC-1 use and (2) other REC-2 uses (e.g., uses involving the aesthetic aspects of water) shall still remain in effect at all times.
10. The Regional Boards’ goal in making the above amendment is to assign beneficial uses that accurately reflect the existing and potential uses of the region’s engineered channels where access is restricted during wet weather conditions due to the inherent danger of recreating in these channels during and immediately following significant storm events.
11. In addition, for purposes of clarity, the Regional Board is reformatting the Table 2-1 of the Basin Plan, which identifies beneficial uses of inland surface waters in the Los Angeles Region. Table 2-1 is reformatted such that the recreational beneficial uses (“REC uses”) are moved to a newly created table, Table 2-1a, which only addresses the recreational beneficial use designations of inland surface waters. This change is made to clearly express the amendments herein as well as in anticipation of the increasing complexity of the recreational beneficial use designations of inland surface waters in the Los Angeles Region.
12. The Regional Board’s action is legally justified for three reasons. First, during the defined wet weather conditions, recreation is not an existing use in the candidate water bodies because the rate of flow, velocity and depth of the water renders them unsafe for individuals to engage in recreational activities. Furthermore, under the defined wet weather conditions including the 24 hours after the rain event, Los Angeles County routinely locks all access gates to these flood control channels per the protocols outlined in the “Operational Standards and Guidelines Document” (December 10, 1999) prepared by the Multi-Agency Swift Water Rescue Committee. Access gates to engineered flood control channels in Ventura County are always locked. Therefore, recreational activities are prohibited in these channels under the defined wet weather conditions. Second, due to the design of the engineered flood control channels, recreational uses in these channels are not attainable, under the defined wet weather conditions during which the suspension would apply, regardless of effluent limitations under CWA section 301(b)(1)(A) and (B) and section 306 or cost effective and reasonable best management practices. Third, the engineered channels meet factors 2 and 4 listed in 40 CFR 131.10(g), demonstrating that attaining the use is infeasible. Regarding factor 2, Southern California streams are naturally flashy systems due to the predominantly dry climate and short, concentrated wet season. These natural flashy conditions result in intermittent

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dangerous flow volumes and velocities after rain events that prevent the attainment of the use during and for 24 hours following a ½-inch rain event. These natural flashy conditions are further exacerbated in engineered flood control channels, which are designed to contain and convey water rapidly to a discharge point. This results in the use being unattainable under factor 4 as well. These hydrologic modifications, made for the purpose of flood control, in combination with natural conditions physically preclude the attainment of the use during and immediately following a ½-inch or greater storm event. Further, it is not feasible to restore the water body to its original condition or operate the modifications in such a way as to attain the use during the defined wet-weather events.

13. These modifications are consistent with the State's anti-degradation policy (State Board Resolution 68-16) and federal anti-degradation requirements as they will not lower the water quality of the candidate water bodies, relative to existing conditions.
14. Interested persons and the public have had reasonable opportunity to participate in review of the amendment to the Basin Plan. Efforts to solicit public review and comment include a public workshop/CEQA scoping meeting held on May 6, 2003 and release of a draft staff report, tentative resolution, and basin plan amendment on May 15, 2003.
15. A Notice of Hearing and Notice of Filing were published and circulated 45 days preceding Board action. Regional Board staff responded to oral and written comments received from the public; and the Regional Board held a public hearing on July 10, 2003 to consider suspension of the recreational beneficial uses in engineered channels during defined wet weather conditions.
16. The basin planning process has been certified as functionally equivalent to the California Environmental Quality Act requirements for preparing environmental documents (Public Resources Code, Section 21000 et seq.) and as such, the required environmental documentation and CEQA environmental checklist have been prepared.
17. The proposed amendment results in no potential for adverse effect (de minimis finding), either individually or cumulatively, on wildlife.
18. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
19. The Basin Plan amendment to suspend the recreational beneficial uses of engineered channels during defined wet weather conditions must be submitted for review and approval by the State Water Resources Control Board (State Board), the State Office of Administrative Law (OAL), and the United States Environmental Protection Agency (USEPA). The Basin Plan amendment will become effective upon approval by OAL and USEPA. A Notice of Decision will be filed.

THEREFORE, be it resolved that

1. Pursuant to sections 13240 and 13241 of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendment to the Water Quality Control Plan for the Los Angeles Region as set forth in the attachment.

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2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the SWRCB in accordance with the requirements of section 13245 of the California Water Code.
3. The Regional Board requests that the SWRCB approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward it to OAL and the USEPA.
4. If during its approval process the SWRCB or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Board of any such changes.
5. The Executive Officer is authorized to sign a Certificate of Fee Exemption.

I, Dennis A. Dickerson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on July 10, 2003.

Dennis A. Dickerson
Executive Officer

Date

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